UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA   )
)

v.   )   No. 3:10-CR-133
)   (Phillips)

NATHANIEL MAURICE PARKER   )

AMENDED MEMORANDUM AND ORDER

This memorandum and order supercedes the memorandum and order entered on September 9, 2011 [Doc. 38].

This matter is before the court on the government's motion in limine for the admission of other crime evidence pursuant to Rule 404(b) of the Federal Rules of Evidence [Doc. 34]. The defendant has entered a not guilty plea to the one-count indictment charging him with being a felon in possession of a firearm and ammunition. The government contends that it must prove defendant's knowing possession of the firearm and ammunition which renders his prior state court conviction for possession of a handgun by a previously-convicted felon relevant because it shows the defendant's intent, knowledge, and lack of mistake or accident in the instant offense.

Defendant has responded in opposition [Doc. 37] stating that since he has agreed to a stipulation to the fact that he is a convicted felon for presentation to the jury, the admission of this prior conviction is not relevant to the charge at issue, is being used solely as propensity evidence, and the probative value of the conviction is substantially

outweighed by the danger of unfair prejudice, confusion of the issues, and will mislead the jury.

The court will not make any blanket ruling admitting this evidence in advance of trial. The issues of relevance and prejudice under Rules 404 and 403, Federal Rules of Evidence, should be addressed in the context of the trial when the court has the evidence before it. Accordingly, the government's motion in limine [Doc. 34] is **DENIED** at this time, subject to renewal at trial. The parties should take this matter up with the court out of the presence of the jury and the court will rule upon the admissibility of such evidence at that time. *See* Rule 103(c), Federal Rules of Evidence.

ENTER:

s/ Thomas W. Phillips
United States District Judge

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